

UNITED STATES DISTRICT COURT

DISTRICT OF SOUTH DAKOTA

WESTERN DIVISION

MATT NASUTI,

Plaintiff,

vs.

WALMART, INC.,

Defendant.

5:20-CV-5023-LLP

ORDER

On November 23, 2021, this Court entered Judgment in favor of Defendant Walmart, Inc. (“Walmart”) and against Plaintiff Matt Nasuti (“Nasuti”). (Doc. 120.) Walmart filed a Bill of Costs on December 3, 2021. (Doc. 122.) Then, on December 13, 2021, Walmart filed a “Withdrawal of Bill of Costs.” (Doc. 123.) Walmart notified the Court that it was withdrawing its bill of costs and waiving its right to such costs “based solely upon Plaintiff’s agreement not to seek an appeal of the judgment entered on November 23, 2021.” (Doc. 123.)

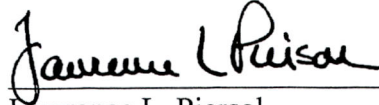
The November 23, 2021 Judgment was never appealed. The Supreme Court has determined that the timely filing of a notice of appeal in a civil case is a jurisdictional requirement. *Bowles v. Russell*, 551 U.S. 205, 214 (2007). Federal Rule of Appellate Procedure 4(a)(1)(A) states that a notice of appeal in a civil case “must be filed with the district clerk within 30 days after entry of the judgment or order appealed from.” The time limit in Appellate Rule 4(a) is based on the statutory time limit for filing a notice of appeal found in 28 U.S.C. § 2107. *See Bowles*, 551 U.S. at 208. If he desired to appeal, Nasuti needed to file a notice of appeal within the applicable 30-day time period following entry of the November 23, 2021 Judgment in favor of Walmart. In other words, Nasuti had to file a notice of appeal on or before December 23, 2021.

In light of Walmart’s withdrawal of its Bill of Costs based on Nasuti’s agreement not to seek an appeal, and because the time for Nasuti to appeal has passed,

IT IS ORDERED that no further proceedings are necessary, and this case is closed.

Dated this 25th day of January, 2022.

BY THE COURT:

A handwritten signature in blue ink, appearing to read "Lawrence L. Piersol", written over a horizontal line.

Lawrence L. Piersol
United States District Judge

ATTEST:

MATTHEW W. THELEN, Clerk

A handwritten signature in blue ink, appearing to read "Matthew W. Thelen", written over a horizontal line.